



Offices of the
Inspector General

2022

ANNUAL REPORT ON GAMING COMMISSION OVERSIGHT



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Executive Summary

Gaming, gambling and wagering, and the services which accompany its many forms, is a multi-billion-dollar enterprise in New York State comprised of multiple, diverse industries spanning the entire geographic stretch of the state and reflecting wide distinctions in operations- from the racetracks of Central New York to Powerball sales happening at the edge of the Atlantic shores. The New York State Gaming Commission (Commission) regulates and provides oversight for these industries. Specifically, the industries overseen by the Commission include: charitable gaming, commercial casinos, Class III Indian gaming, video lottery gaming, horse racing and pari-mutuel wagering, the State Lottery, interactive fantasy sports, and mobile sports wagering. In order to ensure the absence of any self-dealing, conflict, or other fraud in the Commission's execution of its responsibilities, the New York State Inspector General¹ has specific statutory authority to receive and investigate complaints from any source regarding allegations of corruption, fraud, criminal activity, conflicts of interest or abuse in the Commission and to undertake proactive initiatives aimed at preventing, eliminating, and/or detecting such concerns.²

The Commission, headquartered in Schenectady, maintains a physical presence at 11 horse tracks, 20 casinos, and six Lottery field offices throughout the state (including one Lottery field office at the Schenectady headquarters). As part of its oversight, the Commission is also responsible for licensing a wide range of operators and employees, including lottery retailers and casino and racetrack employees, and has a bureau assigned to effectuate this function. As Commission personnel are located throughout the state, the Office of the New York State Inspector General (OIG) endeavors to maintain its presence and accessibility by conducting outreach, including regular site visits to meet with Commission employees and operators, as well as conducting corruption awareness trainings.

On January 8, 2022, New York's gaming horizon was significantly broadened by the legalization of mobile sports wagering, resulting in higher than anticipated tax revenues for the State. At the conclusion of New York's first full year of legalized mobile sports wagering,³ the total handle (amount wagered by bettors) generated was in excess of \$16.5 billion. In fact, New York recorded eight of the ten highest monthly handles generated nationally in the history of mobile sports wagering.⁴ The taxes raised on this revenue provided the State with more than \$709 million in aid to education. Moreover, another \$200 million in licensing fees were also collected, raising the total revenue generated to more than \$909 million for the State of New York.⁵

In 2022, following the resumption of in-person training of Commission employees by OIG staff, the creation of a dynamic social media campaign around OIG's gaming oversight, and the legalization of mobile gaming in New York State, OIG fielded more than double the number of gaming related complaints than the year prior.

150%

Increase in the number of complaints received by OIG.

While the vast majority of these complaints were identified as being most appropriately reviewed by the Commission or a gaming operator's customer support team and thus referred to the Commission, OIG investigations were opened into a number of matters, some of which are ongoing. One such opened investigation resulted in the criminal conviction of a Commission per diem employee. Additionally, as is its common practice, OIG issued several letters to the Commission in 2022, encapsulating investigative findings and recommendations for administrative review and/or other action.

Purpose & Scope of Annual Report

New York State Racing, Pari-Mutuel Wagering and Breeding Law (PMWBL) § 131(7) mandates that an annual report regarding OIG's oversight of the Commission for the preceding calendar year be submitted to the Governor, State Comptroller, and Legislature. Accordingly, this Annual Report outlines some of the notable administrative and operational endeavors, issued letters, outreach, and training conducted in furtherance of that mandate.

Background

The Upstate New York Gaming Economic Development Act of 2013 was enacted for the purpose of creating jobs, increasing school aid, providing property tax relief, authorizing destination resort gaming, and consolidating the New York State Racing and Wagering Board and the Division of the Lottery into the Commission. The Commission regulates all legal gaming activity in the State, which includes horse racing, charitable gaming (e.g., bell jar, bingo, casino nights, and raffles), the Lottery, casinos (Indian, video Lottery, and commercial gaming), interactive fantasy sports, and more recently, mobile sports wagering.

The Legislature also determined that it was “essential to maintain the public confidence and trust in the credibility and integrity of legalized gaming activities,”⁶ and to that end, specifically created an Office of the Gaming Inspector General (OGIG). OGIG was tasked with investigating allegations of corruption, fraud, criminal activity, and conflicts of interests or abuse in the Commission; periodically reviewing and examining policies and procedures; making recommendations to combat corruption, fraud, criminal activity, and conflicts of interest or abuse; preparing and releasing to the public written reports of its investigations, as appropriate; referring, when necessary, its findings for disciplinary action or civil or criminal prosecution; establishing training programs; and liaising with other law enforcement organizations. The Commission and OGIG were officially formed on February 1, 2013.

In January 2021, then Governor Andrew M. Cuomo proposed “extract[ing] and segregat[ing] the Gaming Inspector General’s resources and authority from Gaming Commission resources” and transferring the operations of the former OGIG to the New York State Inspector General in order “to eliminate any potential conflicts of interests between the Gaming Commission and the Gaming Inspector General.”⁷ Chapter 59 of the Laws of 2021, effective June 18, 2021, modified the PMWBL by transferring the duties and responsibilities of the former Office of the Gaming Inspector General to the New York State Inspector General.

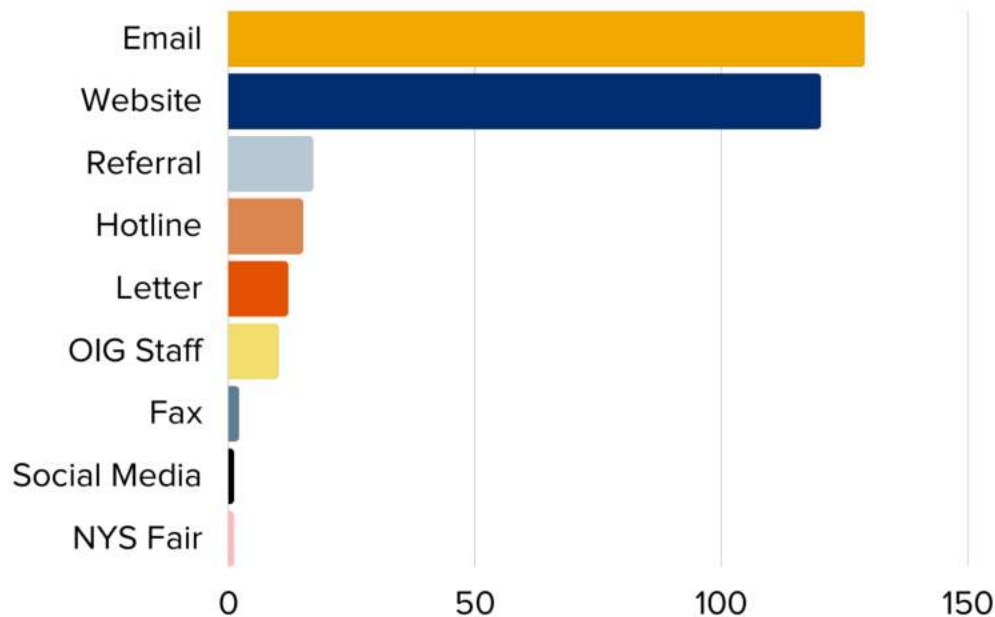
Also pursuant to Chapter 59 of the Laws of 2021, the acting Gaming Inspector General and two staff members of the former Office of the Gaming Inspector General transferred to the Office of the New York State Inspector General.⁸ From their incorporation into OIG in mid-2021 through 2022, these three employees have shared their knowledge of gaming investigations, gleaned through years of prior oversight of Commission operations, by delivering multiple trainings and presentations to OIG staff, thereby multiplying the investigatory personnel available to investigate gaming related complaints.



OGIG Staff Member brought onto OIG trains new colleagues.

Complaints

In 2022, OIG received 307 gaming related complaints, a nearly 150% increase from the 123 such complaints taken in the year prior. Complaints are received through multiple forms of communication, including hotline, telephone, email, mail, online complaint form, and in-person. OIG may also self-initiate a complaint for review. Complaints received in 2022 were derived from the following forms of communication:



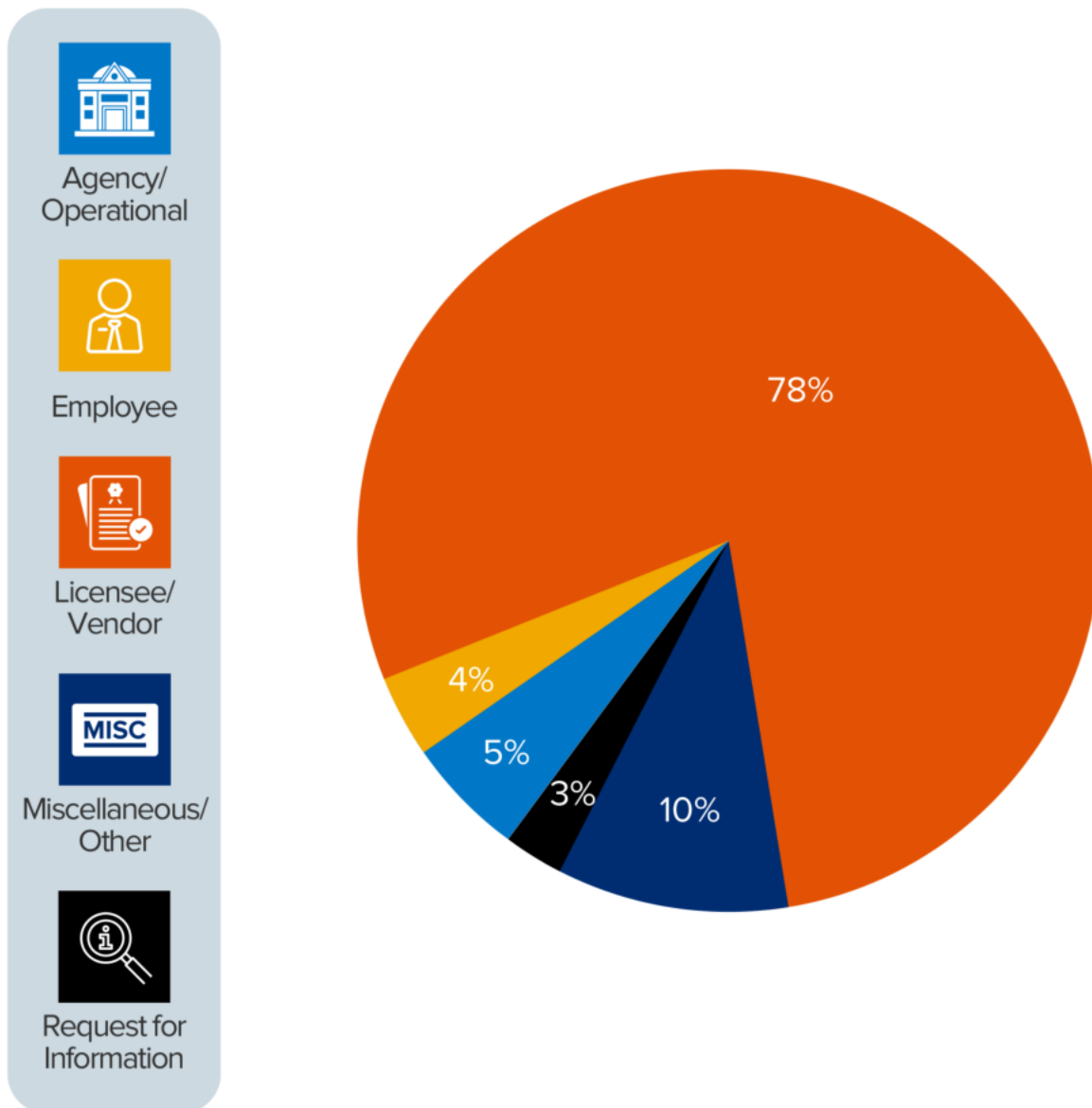
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In general, complaints may be described as involving one of the following concerns: agency and operational type complaints, which include concerns about program, policy, or procedure issues like lack of staff or direction from management; employee type complaints which include individual behavior concerns such as time and attendance issues or favoritism; licensee or vendor type complaints which include service-related issues raised by patrons such as account access problems or concerns about promotional offers; inquiries which are not traditional complaints but amount to a request for information; or, lastly, miscellaneous type complaints which do not fit into the other categories or which do not relate to OIG's oversight of the Commission. The distribution of the types of complaints received in 2022 is as follows:



The review process for newly received gaming related complaints is conducted in the same manner as all complaints received by OIG. On a weekly basis, a team of OIG leadership across all disciplines assembles to review and discuss the complaints received over the prior week. The details of each complaint are thoroughly evaluated to determine if the facts alleged establish a matter under OIG’s jurisdiction and if that matter warrants investigation by OIG, or if additional information is needed to make such a determination.

Alternatively, many complaints involve facts that, even if accepted as true, constitute traditional Commission regulatory matters such as vendor customer service disputes, rather than issues of problematic behavior within the Commission. Complaints such as these are referred back to the Commission for possible administrative action. Other complaints may be determined to be appropriate for referral to OIG’s law enforcement partners, or other government investigatory entities, or it may be determined that OIG lacks jurisdiction, or that there is no actionable complaint. The 307 complaints received in 2022 had the following actions taken by the conclusion of 2022:

Action	Count
Referred	250
No Action	27
Additional to Existing Complaint/Duplicate	16
Preliminary Investigation	4
Open	6
Control	4
Total	307

Investigations

When an investigation is commenced, OIG endeavors to assign staff with the requisite skill set needed to ensure a thorough and comprehensive investigation. Thus, whenever possible, a multidisciplinary team comprised of investigative counsel, investigator(s) and/or auditor(s) work collaboratively together. Investigations may result in referrals to prosecutorial partners for criminal prosecution, to the Commission or other State agencies, such as the Office of Employee Relations Anti-Discrimination Investigations Division for administrative review and/or action, or to the Commission on Ethics and Lobbying in Government for action on ethics law violations.⁹

In 2022, OIG issued multiple letters containing numerous investigative findings and recommendations, each of which were sent to the Commission for administrative review and/or action. Additionally, in December 2022, an OIG investigation of a Commission per diem employee resulted in that employee's arrest for Offering a False Instrument for Filing in the First Degree, a felony offense. The employee was subsequently convicted of the offense.

Below is a summary of some notable matters handled by OIG in 2022:

Outside Activities by Commission Employees

Outside Veterinary Practice

OIG determined that a Commission supervising veterinarian, a per diem employee, was the sole principal owner of a veterinary practice, which also offered equine services. Although the business was incorporated in 2019, the employee did not disclose, request, or obtain approval for this outside activity from the Commission or then existing Joint Commission on Public Ethics ("JCOPE") until 2021. Moreover, despite her belated disclosure of her veterinary practice, the employee failed to state that the business included equine care.

Following an interview with OIG, the employee fully disclosed the scope of her business to the Commission and sought guidance from the Commission's ethics officer. OIG determined, and informed the Commission of same, that the employee did not have any financial dealings or clients that were licensed by the Commission.

Outside Veterinary Practice & Contract with Agriculture and NYS Horse Breeding Development Fund

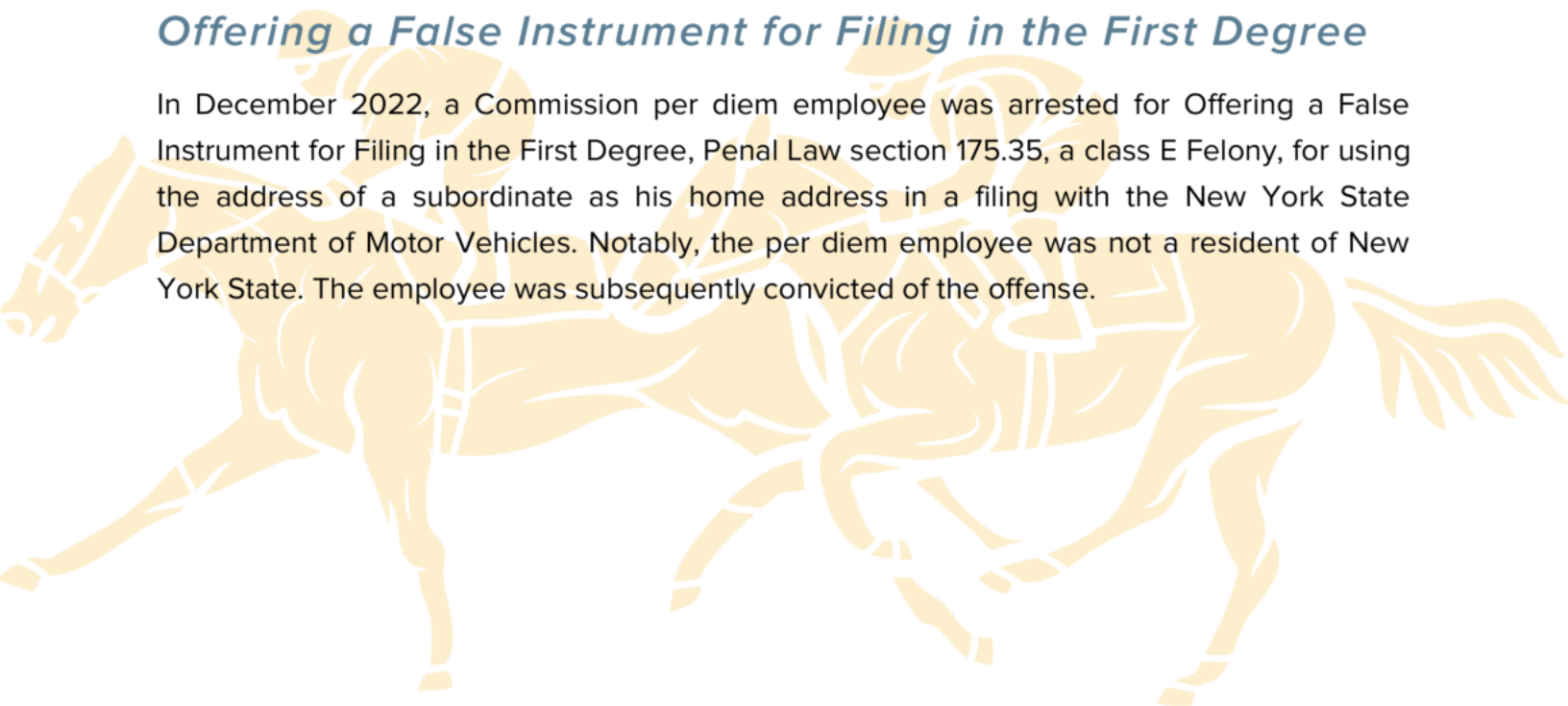
In another case, OIG determined that a Commission per diem employee working as supervising veterinarian was part of a private veterinary practice and also contracted with the Agriculture and NYS Horse Breeding Development Fund (Fund) to provide veterinarian services while employed with the Commission. The supervising veterinarian did not obtain written approval to engage in either outside activity from the Commission or then existing JCOPE. It was also determined that the Commission and the Fund failed to consistently comply with the provisions of their Shared Service Agreement and that at least nine other Commission per diem employees engaged with the Fund as independent contractors in lieu of using the agreement. Lastly, OIG determined that the Commission lacked sufficient written policies or procedures related to the collection and transportation of equine drug testing samples. As a result, contrary to standard operating procedures, this supervising veterinarian, among others, occasionally transported blood and urine samples to the laboratory responsible for the New York Equine Drug Testing and Research Program (NYEDTRP).

The veterinarian resigned from her per diem position prior to the conclusion of the investigation, and OIG's findings and recommendations were referred to the Commission for administrative review and/or action.

Division of Horse Racing and Pari-Mutuel Wagering (Division of Racing)

Offering a False Instrument for Filing in the First Degree

In December 2022, a Commission per diem employee was arrested for Offering a False Instrument for Filing in the First Degree, Penal Law section 175.35, a class E Felony, for using the address of a subordinate as his home address in a filing with the New York State Department of Motor Vehicles. Notably, the per diem employee was not a resident of New York State. The employee was subsequently convicted of the offense.



Charitable Gaming

AMVETS Post 48

OIG determined that AMVETS Post 48 (Post) was operating illegal gambling devices in a secure back room at the Post. Following a preliminary review of the initial complaint alleging illegal gambling activity, OIG requested that the Commission's Division of Charitable Gaming conduct a bell jar inspection of the Post to ensure compliance with its rules and regulations. During the inspection, investigators observed nine slot machines inside a private room, as well as March Madness, NASCAR, and Super Bowl box sheets in other locations at the Post.

A Post founder, trustee, and member-in-charge informed investigators that the slot machines were provided by two different suppliers and that the proceeds were split 60-40 in the Post's favor. The Post advised that the slot machines would be removed immediately, which investigators subsequently confirmed.

This was not the first time that the Post was found to be conducting illegal gambling. In 2017, following the execution of a search warrant, the Post was found to be in possession of 13 slot machines, gambling records, two surveillance systems, and almost \$10,000 in cash. Although the illegal gambling devices were operated by the Post, charges were not brought against the Post or any of its members and the cash seized was returned. The Post was not licensed by the Commission at the time of the search warrant.

Given this history, OIG recommended that the Commission review the suitability of the Post to conduct charitable gaming.



Corruption Awareness Training & Public Awareness

Training of Commission Staff

In 2022, OIG fulfilled its statutory mandate to provide Corruption Awareness Training to the hundreds of full-time and per diem Commission employees assigned to 35 separate facilities throughout the State, as well as additional per diem employees, through a combination of both in person outreach and online programming offered via the State's Statewide Learning Management System (SLMS). Notably, the number of per diem staff fluctuates depending upon which racetracks are operational. In June 2022, when most racetracks were open, the Commission had approximately 459 full-time and per diem employees in total, while at the close of 2022, there were approximately 368.¹⁰

This fluid and geographically diverse workforce presents unique challenges to OIG staff in establishing an in-person presence with Commission employees – but in 2022, as residual pandemic restrictions were lifted,¹¹ OIG ramped up its outreach, conducting more than a half dozen in-person trainings and almost two dozen site visits across the State. Through OIG's training efforts, over 200 full-time and per diem Commission employees received OIG training in 2022 alone. While the SLMS module continues to serve as a vital tool to train Commission staff in Schenectady and the 34 field locations where many Commission employees work, OIG looks to further expand its physical presence in these field locations across the state in the coming year by increasing the use of statewide OIG staff and resources. Notably, such trainings are intended to serve the dual purpose of educating Commission staff on ethics issues and to increase awareness of OIG as a resource for receiving complaints and concerns.

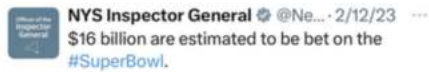


Additionally, OIG staff also participated in a dozen in-person and virtual board meetings, including those of the Commission, the Fund, the Gaming Facility Location Board, and the New York State Franchise Oversight Board.

Transparency Initiative and Public Awareness

In support of Governor Kathy Hochul's pledge to promote transparency and accountability within government, and as a part of OIG's own transparency plan, in February 2022, Inspector General Lang released 15 historical investigative reports and letters involving horse racing for the time period 2015 through 2021.¹² Moreover, Inspector General Lang announced

that OIG will continue to proactively make all such reports and letters public.¹³



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The Inspector General has personally sought to have a greater presence at Commission regulated locations, and has visited a number of gaming locations, including Saratoga Racecourse, Belmont Park, and Aqueduct Racetrack, where she visited the testing barn and met with various Commission and track employees.

In 2022, OIG also utilized social media platforms to increase public awareness of its role in oversight of the Commission. In addition to regular postings on Instagram, Twitter, and LinkedIn regarding the role and work of OIG in the area of gaming, OIG has posted gaming specific messages and issued press releases on key dates relevant to the Commission's work, such as during the NCAA Basketball Tournament, the National Football League

playoff season, the Super Bowl, and in advance of Triple Crown horse racing events.



OIG "Help Us Keep Gaming Fair" informational sign posted at a casino.

Developments in 2022 Relating to the Commission's Operations

Mobile Sports Wagering

On January 8, 2022, mobile sports wagering officially launched in New York¹⁴ and proved to be a phenomenal success, generating over \$16.5 billion in handle during its first full year of operation and yielding \$909 million in tax revenue to the State. However, some operators have advocated for a lower tax rate, claiming that without a reduction they would need to reduce their promotional spending, which would ultimately impact patronage. Although the full complement of mobile sports wagering platforms was not operational until July 2022, New York recorded eight of the ten highest monthly handles generated nationally in the history of mobile sports wagering. The taxes raised on such revenue provided the State with more than \$709 million in aid to education. Moreover, another \$200 million in licensing fees were also collected, raising the total revenue generated to more than \$909 million for the State. Notably, the addition of mobile sports wagering led to an uptick in the complaints received by this office, as reflected above.



Interactive Fantasy Sports (IFS)

On March 22, 2022, the New York State Court of Appeals held that the law authorizing and regulating IFS contests is constitutional, in that, IFS does not constitute prohibited gambling. Accordingly, in October 2022, the Commission proposed rules and regulations relating to the activity. These rules and regulations have not yet been adopted.

Downstate Commercial Casino Licenses/Gaming Facility Location Board

As a part of the 2022-2023 State budget, the timeline for initiating the licensing process for the issuance of up to three downstate commercial casino licenses was accelerated to commence in 2022 instead of 2023. In October 2022, the Commission appointed three members to the Gaming Facility Location Board (Board), which is responsible for, among other things, issuing Requests for Applications (RFAs), developing criteria for assessing casino applications, and evaluating these applications with input from local Community Advisory Committees as to community support for the proposed casino. The Board will then recommend to the Commission up to three applicants/proposed facilities to be licensed.

Horseracing Integrity and Safety Authority (HISA)

HISA's Racetrack Safety Program went into effect on July 1, 2022.¹⁵ According to its website, HISA was "created to implement a national, uniform set of integrity and safety rules that are applied consistently to every thoroughbred racing participant and racetrack facility."¹⁶ In furtherance of this, HISA's Racetrack Safety and Anti-Doping and Medication Control Standing Committees have drafted rules and regulations to enhance horse and rider safety and wellbeing and to ensure the integrity of the sport. Currently, HISA's authority is only over thoroughbred racing, though a state could request that HISA's jurisdiction be extended to a state's harness racing.

Relatedly, HISA's Anti-Doping and Medication Control (ADMC) program, which includes the taking of equine urine and blood samples and investigations into any positive test results, went into effect on May 22, 2023. HISA's drug testing partner, Drug Free Sports International, and the Horseracing Integrity & Welfare Unit are responsible for implementing HISA's ADMC program.¹⁷

Looking Ahead

In the year ahead, OIG will continue its robust outreach and training program for Commission staff, as well as conduct regular site visits. OIG will also continue educating its staff on the knowledge and tools necessary for the investigation of Commission matters, which will increase the personnel available to work on cases. In the year since the last annual report, OIG staff has increased more than 15%, with 33 new hires who will add to the investigative and administrative support on these matters. In addition, OIG will continue to monitor legislative developments relevant to the Commission's oversight, including HISA's Anti-Doping and Medication Control (ADMC) program, downstate commercial casino licenses, and interactive gaming.

Downstate Commercial Casino Licenses

On January 3, 2023, the Board issued the RFA for three downstate commercial casino licenses. The Board also determined that the minimum investment by those seeking a license shall be no less than \$500 million, with a \$1 million application fee. The review and evaluation of applications by the Board is expected to last until at least the fall 2023. The local Community Advisory Committees will be constituted after applications have been received.

Problem Gambling and Responsible Gaming

With the increase in gaming options for New York State residents, there has been increased attention on problem gambling and responsible gaming, for which a portion of gaming revenue is dedicated. On January 13, 2023, legislation was proposed to include warnings about the potential harmful and addictive effects of gambling on mobile sports wagering advertisements.¹⁸ Additionally, Commission board members have expressed particular interest in prohibiting advertisements on college campuses or that target college-aged/underaged persons, and, on February 27, 2023, proposed rules and regulations that would specifically prohibit advertising directed towards this demographic. These rules were revised most recently in May 2023, and remain subject to public comment. OIG is actively planning to convene a public forum on the issue in late 2023.

HISA

Although HISA's Racetrack Safety and ADMC programs are fully operational, the Commission, has not entered in any agreements with HISA regarding funding, use of State resources, or address standardbreds. As such, it is uncertain how these programs will impact the operations of the Commission's Division of Racing or that of the NYEDTRP.

Conclusion

Given all the changes and gaming initiatives on the horizon, it will be crucial that OIG continue to increase its visibility with the general public, other law enforcement organizations, and of course, the Commission and its licensees and vendors. Hence, OIG will continue to aggressively conduct outreach and training, as well as diligently review complaints and conduct investigations to fulfill its statutory mandate.



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Notes

1. On November 29, 2021, Governor Kathy Hochul appointed Lucy Lang as the New York State Inspector General. On February 24, 2023, Ms. Lang was re-appointed as the New York State Inspector General for a term that runs conterminously with the current term of the Governor.
2. Effective June 18, 2021, the duties and responsibilities of the former Office of the Gaming Inspector General were transferred to and encompassed by the Office of the New York State Inspector General. See Chapter 59 of the 2021 Laws of New York.
3. The full year started on January 8, 2022, and concluded on January 7, 2023.
4. See Testimony of Robert Williams, Joint Public Hearing on Mobile Sports Betting – 1st Year Budgetary Impact (Jan. 26, 2023), <https://www.nysenate.gov/calendar/public-hearings/january-31-2023/joint-public-hearing-mobile-sports-betting-ny-first-year>.
5. See Press Release, Governor Hochul Announces Mobile Sports Wagering Generated \$909 Million for New York State in First Year of Operation (Jan. 13, 2023), <https://www.governor.ny.gov/news/governor-hochul-announces-mobile-sports-wagering-generated-909-million-new-york-state-first>.
6. See Laws of New York, Chapter 60 of the Laws of 2012, § 100.
7. See FY 2022 Executive Budget Briefing Book, Revenue Actions, Gaming Initiatives, “Decouple the Gaming Commission and the Gaming Inspector General,” <https://www.budget.ny.gov/pubs/archive/fy22/ex/book/revenueactions.pdf>, at 10.
8. The two staff members included the special assistant to the former gaming inspector general and an investigator.
9. The Ethics Commission Reform Act of 2022 established the Commission on Ethics and Lobbying in Government, which effectively replaced the Joint Commission on Public Ethics as of July 8, 2022. See NYS Exec Law § 94.
10. Most per diem staff are rehired for the next race meet, though each rehire must be submitted by the Commission and approved by the Governor’s Appointments Office and the Division of the Budget. In June 2022, when most racetracks were open, the Commission had approximately 459 full-time and per diem employees in total. At the close of 2022, there were approximately 368 such employees.

Notes (cont.)

11. At the request of the Commission, due to health and safety concerns, a hiatus of in-person trainings was taken as a precautionary measure.
12. See Press Release, Inspector General Lucy Lang Releases Historical Horse Racing Investigations As Part Of Groundbreaking Transparency Initiative (Feb. 11, 2022), <https://ig.ny.gov/news/inspector-general-lucy-lang-releases-historical-horse-racing-investigations-part>. See also Press Release, Inspector General Lucy Lang Implements Transparency Measures to Increase Accountability to the Public (Nov. 29, 2021), <https://www.ig.ny.gov/news/inspector-general-lucy-lang-implements-transparency-measures-increase-accountability-public>.
13. See <https://www.ig.ny.gov>.
14. The licensed operators did not launch at the same time. Four operators (BetRivers, Caesars Sportsbook, DraftKings, and FanDuel) launched on January 8, 2022. Another three operators (BetMGM, PointsBet, and Wynn) launched within the next month. Another operator (Empire Resorts) launched on March 3, 2022, and the last operator (Bally's) launched on July 8, 2022.
15. On December 27, 2020, the federal Horseracing Integrity and Safety Act was signed. See H.R. 1754 –116th Congress. Although HISA was initially scheduled to assume regulatory responsibility for horse racing nationwide on January 1, 2022, only its Racetrack Safety Program went into effect on July 1, 2022. HISA's Racetrack Safety Rules can be found at <https://hisaus.org/resources/racetrack-safety-rules>.
16. See <https://hisaus.org/about-us>.
17. See <https://www.hiwu.org/education-and-resources?modal-shown=true>.
18. See 2023-2024 Legislative Session, State Senate Bill S1550. The Commission rules and regulations already require that the New York HOPE line be included. See NYCRR § 5325.6. The Commission has also included QR codes on its Lottery tickets.